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The crimson logic case: When is a judgment not a judgment?

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On 29 December 2006, the District Court delivered a 67-page oral judgment acquitting all four defendants in the CrimsonLogic case. Despite the length of his judgment, the trial judge stated that he would 'elaborate on these reasons if it becomes necessary'. In the light of the CrimsonLogic case, this article examines the propriety and legality of the recent practice amongst some Subordinate Courts' judges of writing first or oral judgments prior to their written Grounds of Decision.

After a 62-day trial, which concluded on 29 December 2006, all four defendants in the *CrimsonLogic* case1 were acquitted. The accused were the CEO, Financial Controller, Vice-President of the Trade & Logistics Business Unit and Corporate Counsel of *CrimsonLogic*, an IT systems provider. They were charged, on one count, with engaging in a conspiracy to pay a bribe of $35,000 to Mathias Tan, an IT manager of the supermarket Carrefour, as an inducement for Tan to recommend the award of an IT contract to *CrimsonLogic*.

In acquitting the defendants, the trial judge declared that there was a 'serious doubt' as to the guilt of the fourth accused (the corporate counsel) and 'reasonable doubt' as to the guilt of the other three defendants.[2] This appeared to be an affirmation of the judge's view of the greater degree of innocence of the fourth accused as opposed to any application of double standards of proof for different accused persons in the same trial.

Among the many interesting features[3] of the *CrimsonLogic* case is what happened at the conclusion of the trial. The District Judge read out a 67-page 'oral judgment' to a packed courtroom for over two hours.[4] The following day, the parties received from the court, by e-mail, a 69-page, 234-paragraph written document titled 'Oral Judgment'. It was dated 29 December 2006.

The oral judgment contained a number of qualifications or caveats. For example, it was stated that not all the evidence adduced in court had been set out but would 'focus on the evidence of the key prosecution witnesses'.[5] Only 'the main reasons'[6] for his decision would be given in the judgment. The reasons for this become clear with the learned District Judge's declaration that he 'will elaborate on these reasons *if it becomes necessary*'.[7]

Thus in the oral judgment, the trial judge was only dealing with the 'main reasons' for his decision. No doubt, if the prosecution were minded to appeal, he would further 'elaborate on these reasons'.[8] Again at page 69, paragraph 232, of the judgment comes the notice that despite his finding that the ethical lapse on the part of a company employee did not amount to a conspiracy to pay a bribe, the learned judge 'will elaborate on [his] analysis on the law of corruption *if the need arises*', again obviously if there were an appeal.

The Questions

Was this 'oral' judgment, then, declared 'oral' to enable a second judicial bite at the cherry in the event of an appeal? Was that the reason the reader (or should it be listener of the written 'oral judgment') was informed at the conclusion of the judgment that the judge's findings were on 'particular factual issues including situations where I found the prosecution had not discharged its burden of proof'?[9] Or was the judge obliged to determine all the relevant factual issues, based on, to use the correct judicial parlance, the totality of the evidence adduced before him? Or was that too to be considered only 'if the need arises' in a subsequent judgment?

All this raises a number of more fundamental questions. What is a judgment? What is its purpose? When does it achieve finality? Can it be delivered in parts as and when a judge decides? Can there be two or more judgments from the same court in one case? Do the same rules apply for trial judges in both the High Court and the Subordinate Courts? What is the effect of multiple judgments? When does an oral judgment cease to be a judgment? Or perhaps, more importantly, when is an oral judgment not a judgment for purposes of the Criminal
Procedure Code?[10]

These questions have become important in the wake of an increasing number of first or oral judgments that are presently being delivered by Subordinate Courts' judges. These are variously described as, for example, 'Oral' or 'Brief' or 'Remarks'.[11] In the event a notice of appeal is filed, these are then supplemented or substituted by written Grounds of Decision, as required under s 247(3) of the Criminal Procedure Code. These first judgments are not included in the records of the appeal although s 219 of the Code requires the 'original judgment' to be entered and, if written, to be filed with the record of proceedings. This is perhaps one of the reasons that the propriety of writing double judgments has escaped the scrutiny of the
High Court.

Double Judgments
The writing of double judgments in the Subordinate Courts is a recent practice. It is not clear how or why it was started. It certainly was previously frowned upon, especially in the light of the 1964 decision in *PP v John Thien*.[12] In that case, at the end of a corruption trial, the District Judge read out a two-page judgment referred to as a 'brief judgment'. After notice of appeal was filed, the judge wrote a seven-page 'Grounds of Decision'. Wee Chong Jin CJ allowed an application to expunge the Grounds of Decision from the record. He accepted what was said by Rigby J in *Loh Kwang Seang*[13] that it was not permissible for a trial court, having signed and delivered its Grounds of Decision, to alter it by supplementing it.[14] Consequently, only the earlier oral judgment was considered during the appeal. This decision was followed more recently in *Van Damme Johannes v PP* .[15]

This recent practice in our lower courts, of writing more than one reasoned judgment, appears to be neither supported by legislation nor case law in Singapore and Malaysia.

The Applicable Law: Legislation
Every court exercising criminal jurisdiction is required under the Criminal Procedure Code to deliver its judgment at the conclusion of the trial and its 'Grounds of Decision' upon a notice of appeal being filed.[16] Although the word 'judgment' is not defined in the Criminal Procedure Code, a judgment is the final order made by a criminal court resulting in the conviction or acquittal of the accused.[17] This was reiterated by Yong Pung How CJ in *Lim Teck Leng Roland v PP*:[18]

The word 'judgment' is not defined in the Criminal Procedure Code. The Halsbury's Laws of England, Hailsham Ed, Vol IX, paras 260-265 explains it as a final order in a trial terminating in the conviction or acquittal of the accused. In Chhotey Lal v Tinkey Lal (1935) AIR 815, the court regarded that an order in the nature of a judgment is one which is passed on full enquiry and after hearing both parties.

A judgment is, therefore, no more than a statement that a judge makes at the end of a trial to inform the accused of his decision in the case. Section 219 of the Criminal Procedure Code requires the 'original judgment' to be entered and, if written, filed with the record of the proceedings.
Chapter XXIV of the Criminal Procedure Code prescribes the manner in which a judgment in every criminal court is to be delivered. It is required to be pronounced in open court and in the presence of the accused.[19] Further, the judgment shall in all cases be explained to the accused.[20] It is, therefore, the accused that the judge addresses in pronouncing his judgment,[21] unlike the Grounds of Decision which is largely written so that the appellate court is informed of the reasons for the judgment and sentence, if any.[22] A subordinate court is under a statutory obligation to forward to the High Court the Grounds of Decision upon a notice of appeal being filed.[23]

A judgment under the Criminal Procedure Code is distinct in both form and substance from the Grounds of Decision. It is the Grounds of Decision which set out the reasoning leading to the judgment.[24] As explained by Ismail Khan J in *Balasingham v PP*,[25] the Grounds of Decision constitute 'a reasoned judgment on the facts and the law, not merely the conclusion arrived at' which is what a judgment under the Criminal Procedure Code is.

The other provision that a lower court judge risks offending, if he were to write two or more judgments, is s 217 of the Criminal Procedure Code which incorporates the functus officio rule. Section 217 of the Code prohibits a subordinate court from altering or reviewing its judgment except to rectify a clerical error or other mistake[26] before it rises for the day. As explained by the Singapore High Court in *Chiaw Wai Onn v PP* [27] and in a number of subsequent decisions:

s 217(1) would lay down a general prohibition against alteration of judgments by the subordinate courts. And s 217(2) was an excepting proviso to this prohibition by prescribing the limited circumstances in which the subordinate courts could alter or review their judgments.

Judicial Decisions

The Malaysian judiciary's approach

There are a number of Malaysian decisions which have consistently held that it is not permissible for a trial judge whether in the High Court or the lower court to deliver a judgment and subsequently supplement or add to the judgment, in a written Grounds of Decision.[28] The decision of Spenser-Wilkinson J in PP v Heng You Nang[29] is particularly significant. He held that when a written judgment is delivered, it is perfected as soon as it is delivered and signed and if an oral judgment is delivered, it is perfected as soon as it has been pronounced and signed.

In *Ankur Nath Ganguli v PP*,[30] the trial judge gave reasons for convicting the appellant, and this judgment was reduced in writing. He later wrote his 'Grounds of Decision'. It was contended that the subsequent addition to the oral judgment should be disregarded by the court. The Malaysian Court of Appeal, in considering s 21 of the Courts Ordinance[31] (which is identical to s 46 of the Singapore Supreme Court of Judicature Act, Cap. 322), held that 'if a trial Judge gives no reasons which are recorded for convicting an accused person, then and then only he can on notice of appeal being given write his Grounds of Decision which shall form part of the record'. It refused to consider the later judgment.

Some 30 years later, the Malaysian Supreme Court was asked to re-examine the problem in *Lorraine Phylis Cohen & Anor v PP*.[32] The accused in this case had been convicted of trafficking in dangerous drugs. At the conclusion of the trial the judge handed down a 15-page oral judgment which was dated and signed. Some 15 months later, he purported to hand down another written judgment or Grounds of Decision. The Court of Appeal allowed an application by the accused persons for an order that only the original judgment be included in the record of appeal. It held that it was not competent for the trial judge to supplement his first judgment by delivering a second judgment or Grounds of Decision.

It is interesting to note that in this case the Public Prosecutor sought to distinguish *Ankur Nath Ganguli*[33] on the ground that in *Lorraine's* case the oral judgment was incomplete as it had dealt only with the prosecution case and not with the defence case. In rejecting that submission, the Supreme Court observed:[34]

Once the learned judge delivered his judgment in writing, dated and signed it, such judgment could not be altered or supplemented by another judgment. Section 278 of the Criminal Procedure Code does not assist us. Section 278 (identical to s 217 of the Singapore Criminal procedure Code) provides:

No court, other than a High Court, having once recorded its judgment, shall alter or review the same; provided that a clerical error may be rectified at any time, and that any other mistake may be rectified at any time before the court rises for the day …

Earlier this year, this principle was further tested before the Malaysian Court of Appeal by the Public Prosecutor in a rather innovative manner. In *Public Prosecutor v Hanif Basree bin Abdul Rahman*,[35] the accused had been acquitted by the High Court on a charge of murder, without his defence being called. In the course of the appeal, the Public Prosecutor applied to the Court of Appeal to exercise its powers under s 60(1) of the Courts of Judicature Act 1964[36] to direct the trial judge to write a supplementary judgment to include certain parts of his oral judgment delivered in open court. These had been omitted in his written grounds six weeks later. The Public Prosecutor argued that what was omitted in the Grounds of Decision were erroneous findings which had influenced the trial judge's decision and that their omission in the later Grounds of Decision had deprived him of challenging these. The findings said to have been omitted were in respect of the DNA profile of the accused and certain DNA evidence. The Court of Appeal refused to exercise its discretion under the Court of Judicature Act to do so. It held that in the circumstances of the case it would be 'wrong in principle' to require a supplementary judgment as there was a written, signed judgment before the court.[37]

Singapore decisions before 1994

As pointed out earlier, the problem of double judgments was considered and resolved by the Singapore High Court in 1964 in PP v John Thien.[38] In that case, Wee Chong Jin CJ allowed an application to expunge from the record the Grounds of Decision of a District Judge and considered only his earlier oral 'brief judgment' that had been read out in court.

Following this decision, even High Court judges were careful to avoid writing double judgments and hence burdening the appellate court with having to deal with legal challenges to their judgments as a result. In Van *Damme Johannes v PP*,[39] for example, Rajendran J declined to write any additional Grounds of Decision. This was despite having delivered an oral judgment at the conclusion of the trial in which he had indicated he would be reviewing the evidence in full, in a written Grounds of Decision. He subsequently felt that s 46(1) of the Supreme Court of Judicature Act[40] and the decision in Ankur Nath[41] did not support such a practice of writing Grounds of Decision following the delivery of a judgment.

1994: The beginning of the exception

The problem arose again, 40 years after *John Thien*, in *Goh Lai Wak v PP*.[42] In that case the question for the Court of Appeal was whether, having delivered an oral judgment at the conclusion of the trial, the trial judge was precluded from writing his Grounds of Decision. The Court of Appeal began by first approving the leading Malaysian authorities on the subject:[43]

We agree with the propositions enunciated in *Ankur Nath* and *Lorraine Phylis Cohen*. A judge cannot subsequently give his grounds of decision if he has already delivered a prior judgment at the conclusion of the trial which contains his reasons for convicting the accused.

Despite upholding the clear principles enunciated in these Malaysian decisions, the Court of Appeal, nevertheless, sought to explain away the earlier of the two judgments. It did this, erroneously it is submitted with respect, on the basis of s 218 of the Criminal Procedure Code:[44]

This principle does not affect the operation of s 218 of the Criminal Procedure Code (Cap 68) which provides that a judgment shall be explained to the accused. There cannot be any objection to a judge providing *briefly* at the conclusion of a trial *an outline* of the issues before him and the evidence on them, and to indicate *briefly*, without reasons, his findings on them. In such circumstances, there should be no objection if subsequent written grounds of decision are delivered in which the evidence is fully reviewed and the judge's detailed reasons or grounds for his findings are comprehensively recorded. (emphasis added)

On that basis and given the brevity of the earlier oral judgment of some 300 words, the Court of Appeal found the submission that the trial judge ought not to have written the second judgment and which they ought to disregard, without merit 'on the facts of this case':[45]

The trial judge had merely provided an *oral summary* of the evidence adduced at the trial, and had only indicated in a *general sense* that he disbelieved the appellant's defence and that he found the prosecution

to have proved its case beyond reasonable doubt. In the context of this case, what the trial judge said in his oral statement did not amount to giving his reasons or grounds for convicting the appellant. We, therefore, disagreed with the contention that the trial judge was precluded from writing his grounds of decision and that we should disregard the grounds of decision. (emphasis added)

The purpose of the trial judge outlining only the issues he had to decide and the evidence adduced in respect of these without indicating any of his views, findings or conclusions, is not clear. What indeed was the need for the trial judge to provide 'an oral summary of the evidence'? There was certainly no obligation on his part to do so and risk violating the principle against supplementing a judgment.

It will be remembered that the word 'judgment' in Chapter XXIV of the Criminal Procedure Code (in which s 218 is placed) refers to only the final order resulting in the conviction or acquittal of the accused.[46] Therefore, s 218 of the Code merely provides that it is this final order that 'shall be explained to the accused' and, if he so desires, a 'translation in his own language shall be given to him'. It is submitted, with respect, that s 218 only requires the judge to explain his *decision* of an acquittal or conviction. This is a mandatory provision to ensure an understanding of the trial court's decision by the accused person.[47] It does not thereby require the judge to state his *reasons* for his decision. The Code contains no provisions for 'brief judgments' containing an outline of the issues and the evidence which the Court of Appeal sanctioned in *Goh Lai Wak*.[48] That exercise was the trial judge's statutory duty, under s 247(3) of the Criminal Procedure Code, in his written Grounds of Decision when the notice of appeal was filed. As a result, what the judge did subsequently was to supplement his earlier oral judgment. This clearly resulted in an alteration or review of the earlier judgment which is expressly prohibited by s 217 of the Code.[49]

Indeed, if the Court of Appeal in *Goh Lai Wak* was concerned about upholding the conviction, it could have still done so by disregarding the written Grounds of Decision. As the court acknowledged, even if the Grounds of Decision had been excluded, 'there was overwhelming evidence which amply justified the trial judge's findings (which he made in his oral judgment)' that the prosecution had proved its case beyond reasonable doubt. Such a course would have upheld, what Lee Hun Hoe CJ described in *Lorraine*, as the 'fundamental principle' that it is not competent for a trial judge to supplement a first judgment by delivering a second judgment or Grounds of Decision. It would have at least helped to curb further attempts to dilute it in the Singapore Courts and discourage trial judges from delivering multiple judgments.

Very shortly after its decision in *Goh Lai Wak*, and perhaps because of it, the Court of Appeal faced a similar problem in *Anyanwu v PP*.[50] The appellant was convicted for importing into Singapore a large quantity of diamorphine. On appeal, he argued, inter alia, that as the trial judge had already delivered an oral judgment, he had erred in writing his Grounds of Decision later. The Court of Appeal was, therefore, urged to consider only the earlier oral judgment.

The Court of Appeal, whilst again acknowledging the correctness of the Malaysian decisions in *Ankurr*[51] and *Lorraine*,[52] echoed what it had said in *Goh Lai Wak*,[53] that there could not be 'any objection to a judge providing *briefly* at the conclusion of the trial an outline of the issues before him and to indicate *briefly*, without reasons, his findings'. It held that that was what the trial judge had done in *Anyanwu* too.[54] That was surprising as in his oral judgment, the trial judge had stated the charge, the prosecution's case, the defence and his findings 'that the prosecution had proved the case beyond reasonable doubt, and that he had no doubt that the appellant knew that diamorphine was concealed in the rice cookers, and that accordingly, the appellant was guilt of the charge.' The oral judgment in this case was certainly of greater length and substance than the 300-word oral judgment complained of in *Goh Lai Wak*.

How 'brief' must the outlines of the issues, evidence and findings in the first judgment of a trial judge be, to fall within the *Goh Lai Wak* test of approval, and without possibly violating the prohibition against altering and reviewing judgments under s 217 of our Criminal Procedure Code? When then does a judgment end and the Grounds of Decision begin? Is it determined by the title given to it and the qualifications it contains, as in the *CrimsonLogic* oral judgment? And what really are the limits of the rule of exception first enunciated in *Goh Lai Wak*?[55]

It is unfortunate that the Court of Appeal did not take the opportunity in *Anyanwu* to provide some guidelines for the lower courts. An example of how the High Court may have to second guess the Court of Appeal was demonstrated even seven years after the court's decision in *Anyanwu*.[56] In *PP v Muhammed Ali Hashim & Others*,[57] Rubin J, in acquitting one of the accused, explained his reasons for doing so in what he considered to be 'within the parameters laid out in *Goh Lai Wak v PP*' without explaining what these were. It was, however, an oral judgment that explained the two grounds on which he had rejected the prosecution evidence and why he had been persuaded by the testimony of the accused.

Whatever the parameters in *Goh Lai Wak* may be, the 69-page oral judgment in *CrimsonLogic* certainly does not fall within. In his oral judgment, the District Judge set out the charge and examined the evidence of the three principal prosecution witnesses: Pang Kang Ming (in 13 pages, 46 paragraphs), Anthony Wong (six pages, 16 paragraphs) and Matthias Tan (five pages, 23 paragraphs). He then proceeded to deal at length with what he described as 'My Decision', which included an 'assessment of the evidence of Pang Kang Ming', 'findings' in respect of a crucial 14 April meeting involving the defendants, 'individual assessments of the case against each defendant' various parts of the evidence adduced by the defendants and submissions made on their behalf. These are contained in 45 pages, and 146 paragraphs. He then devoted the rest of the 69-page judgment to his conclusions as to why the prosecution had failed to discharge its burden of proof. It is difficult to imagine how different the District Judge's Grounds of Decision would have been if the Public Prosecutor had appealed.

Reasons Special to Subordinate Courts' Judges?

The *CrimsonLogic* judgment prompted the writer to consider whether there were other reasons for the current practice amongst several lower court judges to deliver detailed oral judgments at the end of the trial.

There are two possible explanations. The first is that Subordinate Courts' judges may be under the impression that the decisions in *Goh Lai Wak* and *Anyanwu*, which were appeals from decisions of High Court judges and which interpreted s 46(1) of the Supreme Court of Judicature Act, may not apply to lower courts judgments.[58] This view ignores the fact that both *Goh and Anyanwu* approved of the Malaysian decision in *Ankur Nath Ganguli*.[59] *Ankur* was also decided on the basis of the equivalent of s 217 of the Criminal Procedure Code which prohibits all courts from altering or reviewing their judgments. The lower courts are also bound by the decision of the High Court in *John Thien v PP*[60] where the Grounds of Decision written after an earlier judgment were expunged from the record of the appeal on the same ground. More importantly, Chapter XXiV of the Code, which governs judgments in summary trials in the lower courts, does not provide for the writing of double judgments. Instead, s 247(3) of the Code requires a written Grounds of Decision to be made available to the appellant 'when a notice of appeal has been lodged'. This is, for purposes of the present discussion, a more exact or directive provision than s 46 of the Supreme Court of Judicature Act[61] which requires a High Court judge to write his grounds of decision when a notice of appeal has been lodged 'if he has not already written his judgment' earlier.

Secondly, lengthy preliminary or oral judgments may have been developed as a measure to manage public interest in well-publicised trials. The problem that has emerged is in respect of cases which have generated considerable public attention in the media. Some trial judges, in trying to keep the public informed through the media, have delivered oral judgments at the conclusion of such trials. These have tended to be more detailed than necessary for the purpose. The judge may exacerbate the problem by lengthening his preliminary judgments by 'cutting and pasting' from written submissions which have become both massive and routine especially in the longer trials. The simple answer for a judge who wishes to go beyond merely pronouncing his verdict or judgment in such cases is one supported by both principle and the authorities. The judge has the choice in such circumstances of reserving judgment, preparing his Grounds of Decision and reading out his Grounds of Decision as a 'judgment'. Alternatively, he could announce his verdict or judgment and write his Grounds of Decision should there be an appeal.

Consequences of Writing Double Judgments

Whatever the term used to describe an earlier judgment, the writing of more than one judgment in a case

is not a practice that ought to be encouraged. It raises some obvious problems including the following:
1 a second or subsequent judgment raises the danger of ex post facto justification;[62]

2 as the Malaysian Supreme Court has cautioned:[63]

Supplementary grounds after a written judgment has been delivered may well affect judicial credibility because they could easily be mistaken for the wisdom of hindsight rather than representing the actual decision-making process. Consequently, it is undesirable to have two written judgments in the same case.

3 the appellate court may only consider the original judgment as it stands and disregard the subsequent Grounds of Decision: *Habee Bur Rahman v PP* [1071] 2 MLJ 194; *Nathan v PP* [1972] 2 MLJ 101; *Loh Kwang Seang v PP* [1960] MLJ 271; *PP v John Thien* [1964] MLJ ci; *Ankur Nath Ganguli v PP* [1956] MLJ 206;
4 the later judgment or Grounds of Decision may be expunged from the record of the appeal leaving only the first judgment with all its inadequacies: PP v John Thien [1964] MLJ ci; *Lorraine Phylis Cohen v PP* [1989] 2 MLJ 288;

5 the presence of more than one judgment may not generally constitute a miscarriage of justice to vitiate the trial (*Loh Kwang Seang v PP* [1960] MLJ 271) but if the first judgment is inadequate or defective and is the only judgment before the court, the court may well find that the trial judge's decision cannot be supported. The remaining judgment, for example, may lack vital considerations such as the weight of the evidence or absence of consideration of accomplice evidence: *Ankur Nath Ganguli v PP* [1956] MLJ 206;

6 legal challenges to the first judgment on the ground that it was incomplete as not having dealt fully with the case for the prosecution or the defence: *Ankur Nath Ganguli v PP* [1956] MLJ 206 or that the Grounds of Decision was incomplete as it had omitted some findings originally indicated in the earlier judgment: *PP v Hanif Basree bin Abdul Rahman* [2007] 2 MLJ 320;

7 applications for an order under s 54(2) and 22(2) of the Supreme Court of Judicature Act, Cap.322 that the judge write a supplementary judgment to include the omissions in his Grounds of Decision contained in his earlier judgment: *PP v Haniff Basree bin Abdul Rahman* [2007] 2 MLJ 320; *Pendakwa Raya v Rungit Singh a/l Jaswant Singh* (unreported case discussed in *Hanif Basree*).

On a common sense view, whether the earlier or later judgment is disregarded or not, there is always the danger of the presence of differences in respect of the trial judge's findings and in his analysis of evidence or contradictions between the two or more judgments. These can be the subject of challenges to the trial judge's findings and on the very nature of his mental process in arriving at his conclusions.[64] In the writer's respectful submission, the wisdom of a judge ought to prevail in steering him away from such an obviously tortuous path.

Conclusion

It is perhaps the absence of any guidelines or directions from the appellate courts on what is permissible in a judgment under s 212 (1) of the Criminal Procedure Code and what the parameters of that judgment ought to be, that may have contributed to the present problem of double judgments in the Subordinate Courts. It is hoped that the High Court will remedy the situation at the earliest opportunity. The more detailed a judge's reasoning in a preliminary or 'oral' judgment and the greater its length, the greater its finality and similarity with a Grounds of Judgment under s 247(3) of the Code.[65] So when is a trial judge's judgment *not* a judgment under the Criminal Procedure Code? Answer: when it displays all the attributes of a Grounds of Decision.

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Notes

1 *PP v Velusamy Mathivanan, Thiagayson Sundram Pillai, Tan Geok Hoon and Alvin Lim Keng Hong* in DAC 47935/2005.
2 At page 69 of the judgment.
3 The judge's decision, for example, to call on and hear the defence for 28 days despite his conclusions against the key prosecution witnesses is not within the purview of this paper.
4 See the *Straits Times*, 30 December 2006
5 At page 1, para 2 of the oral judgment.
6 Ibid.
7 At para 2 of the judgment. Emphasis added.
8 Ibid.
9 At page 67, paragraph 231.
10 Cap.68, 1985 Revised Edition.
11 At the time of writing, a District Judge has issued two written judgments titled 'Remarks at the Close of the Prosecution's Case' (nine pages) and 'Remarks at Sentencing' (nine pages): *PP v T.T.Durai*, DAC 15733 of 2006 which is now the subject of an appeal. He is now in the process of writing his Grounds of Decision.
12 Unreported, but briefly noted in [1964] MLJ ci. This was followed in *PP v Johannes Van Damme* [1993] SGHC 90.
13 [1960] MLJ 271. In that case the Sessions Court judge had added another 27 lines to his first judgment.
14 This prohibition is contained in s 217(1) of our Criminal Procedure Code, Cap.68.
15 [1993] SGHC 90 referred to in *Goh Lai Wok* [1994] 1 SLR 748. For a fuller discussion see the text accompanying footnote 39.
16 Sections 212(1) and 247(3) of the Criminal Procedure Code, Cap.68
17 *Balasingham v PP* [1959] MLJ 193; *Marzuki bin Mokhtar v PP* [1981] 2 MLJ 155;*PP v John Thien*.
[1964] MLJ ci . see also *Mallal's Criminal Procedure Code*, 5th Ed, paragraph 8904; *Halsbury's Laws of Singapore*,vol.8(2), paragraph 95.151
18 [2001] 4 SLR 61 at paragraph 13. Also considered was the Indian case of Re *Balasundara Pavalar* AIR 1951 Madras 7
19 Ibid.
20 Section 218,CPC
21 See for example *PP v Johannes Van Damme* [1993] SGHC 90.
22 *Balasingham v PP* [1959] MLJ 193.
23 Section 247 of the CPC ; s 46(1) of the Supreme Court of Judicature Act, Cap.322 .See also *Balasingham v PP* [1959] MLJ 193.
24 Halsbury's Laws of England, LexisNexis,Volume 8(2), paragraph 95.151;Emmanuel Anyanwu [1994] 2 SLR 46; Balasingham v PP [1959] MLJ 193.
25 Ibid.
26 For a discussion on the mistakes that may be so rectified, see Tan Yock Lin, *Criminal Procedure*, LexisNexis 2007, paragraph 5451.1;*Chiaw Wai Onn v PP* [1997] 3 SLR 445;*PP v Oh Hu Sung* [2003] 4 SLR 541;*Virgie Rizza V Leong v PP* [1998] SGHC 112
27 [1997] 3 SLR 445 followed in *Lim Teck Leng Roland v PP* [2001] 4 SLR 61;*PP v Lee Wei Zheng Winston* [2002] 4 SLR 33
28 See for example *Loh Kwang Seang v PP* [1960] MLJ 271; *Nathan v PP* [1972] 2 MLJ 101;*PP v Yap Thiang Wah* [1992] 1 MLJ 206;*Low Ah Thit v PP* [1992] 2 CLJ 1223; *Ankur Nath Ganguli v PP* [1956] MLJ 206;*Lorraine Phylis Cohen v PP* [1989] 2 MLJ 288; *Habee Bur Rahman v PP* [1971] 194..
29 [1949] MLJ 285 followed in *PP v Yap Thiang Wah* [1992] 1 MLJ 206.
30 Ibid.
31 The relevant part of the provision reads: 'When a notice of appeal has been lodged the Judge by whom the appellant was convicted shall, if he has not already written his judgment, record in writing the grounds of his decision, and such written judgment or ground of decision shall form part of the record of the proceedings.'
32 [1989] 2 MLJ 288.
33 [1956] MLJ 206.
34 [1989] 2 MLJ 288.
35 [2007] 2 MLJ 320,CA.
36 The relevant part of the provision is in pari materia with s 54(2) of the Singapore Supreme Court of Judicature Act, Cap.322.
37 It made reference to *Nathan v PP* [1972] 2 MLJ 101 on this point.
38 Unreported but briefly noted in [1964] MLJ ci. See text in respect of footnote 12, supra, for a fuller discussion. The case was followed in *PP v Johannes Van Damme* [1993] SGHC 90.
39 Ibid The judge also referred to the decisions in *John Thien ,ibid.,and Loh Kwang Seang v PP* [1960]MLJ 271.
40 Cap 322, 1999 Rev.Ed. See footnote 28, supra.
41 [1956] MLJ 206.
42 [1994] 1 SLR 748.
43 Ibid at page 756.
44 Ibid. Emphasis added.
45 At page 756 of the case report. Emphasis added.
46 See text accompanying footnote, supra.
47 This is because the accused must be made to understand the judgment which has been made against him : *Mallal's Criminal Procedure Code* , 5th ed, paragraph 8904.
48 Ibid.
49 See text accompanying footnote 34.
50 [1994] 2 SLR 46.
51 [1956] MLJ 206.
52 [1989] 2 MLJ 288.
53 [1994] 1 SLR 748 at page 756.
54 [1994] 2 SLR 46 at paragraphs 19 and 20.
55 [1994] 1 SLR748
56 [1994] 2 SLR 46
57 [2001] SGHC 78
58 There seems to be a suggestion of this position in a note prepared by District Judges in the manuals for the postgraduate practice law course : see volume on 'Criminal Procedure'(2006), p.244.

59 [1956] MLJ 206 discussed in the text accompanying footnote 30, supra.
60 Unreported, but briefly noted in [1964] MLJ ci and followed in *PP v Johannes Van Damme* [1993] SGHC 90. For a fuller discussion of this case, see the text accompanying footnote 12, supra.
61 Cap 322.
62 As recognised by one writer : Tan Yock Lin, *Criminal Procedure*, LexisNexis 2007, paragraph 5354.
63 *Sykt Bekerjasama-Sama Serbaguna Sungai Gelugor Dengan Tanggungan Bhd v Majilis Perbandaran Pulau Pinang* [1996] 2 MLJ 697
64 See for example *PP v Hanif Basree bin Abdul Rahman* [2007] 2 MLJ 320
65 For a discussion on the differences between a judgment and a Grounds of decision see text accompanying footnotes 17 to 25, supra.